

AMENDED IN SENATE FEBRUARY 14, 2006

AMENDED IN SENATE JUNE 20, 2005

AMENDED IN ASSEMBLY MAY 10, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 707

Introduced by Assembly Member Hancock
(Coauthors: Assembly Members Lieber and Mullin)

February 17, 2005

~~An act to add Section 10296.5 to the Public Contract Code, relating to state contracts.~~ *An act to amend Section 15360, relating to elections, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 707, as amended, Hancock. ~~State contracts: disclosures. Voting by mail: June 6, 2006, primary election.~~

(1) Existing law authorizes a local, special, or consolidated election to be conducted wholly by mail if the governing body of the local agency authorizes the use of all mailed ballots for the election, the election is held on an established mailed ballot election date, and the election meets certain other specified requirements.

This bill would, until January 1, 2007, authorize any county in this state to conduct the June 6, 2006, direct primary election wholly by mailed ballots if specified conditions are met.

(2) Existing law requires the Secretary of State to establish the specifications and the regulations governing voting machines, voting devices, and any software used, including the programs and procedures for vote tabulating and testing. The Secretary of State may

not approve any voting system that does not fulfill statutory and regulatory requirements.

Existing law requires, during the official canvass of every election in which a voting system is used, a public manual tally of the ballots tabulated by those devices cast in 1% of the precincts chosen at random by the elections official.

This bill would provide that the tallied ballots include the absent voter's ballots, provisional ballots, and ballots cast at satellite location. The bill would also require the elections official to use either a random number generator or other method specified by the Secretary of State to randomly choose the initial precincts subject to the public manual tally. By increasing the duties of local elections officials, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law establishes various requirements applicable to entities that contract with the state.~~

~~This bill would require contractors, as defined, and their agents and consultants, who enter into specified contracts with state agencies, as defined, to publicly disclose to the Secretary of State certain communications with the state agency during the one-year period preceding the award of the contract, and would impose a specified civil penalty for failure to comply with the bill's provisions.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) Notwithstanding any other provision of law,
- 2 any county in this state may conduct its June 6, 2006, direct
- 3 primary election entirely by mail ballot if the county elections
- 4 official does all of the following:

1 (1) *Receives approval from the board of supervisors.*

2 (2) *Notifies each registered voter in the county that for the*
3 *June 6, 2006, direct primary election, voting will be by mail*
4 *ballot only.*

5 (3) *Provides the means for accessible voting at its central*
6 *office and, if possible, in locations throughout the county on*
7 *election day.*

8 (4) *Makes available at least one dropoff site for returned*
9 *absentee ballots in each city and in the unincorporated area of*
10 *the county on election day. The locations of the election day*
11 *dropoff sites shall be published in the sample ballot or in a*
12 *newspaper of general circulation in the county at least 10 days*
13 *before the election.*

14 (b) *The processing of the mail ballots may begin at least 10*
15 *business days prior to election day.*

16 (c) *This section shall remain in effect only until January 1,*
17 *2007, and as of that date is repealed, unless a later enacted*
18 *statute, that is enacted before January 1, 2007, deletes or extends*
19 *that date.*

20 SEC. 2. *Section 15360 of the Elections Code is amended to*
21 *read:*

22 15360. (a) *During the official canvass of every election in*
23 *which a voting system is used, the official conducting the*
24 *election shall conduct a public manual tally of the ballots*
25 *tabulated by those devices, including absent voter's ballots,*
26 *provisional ballots, and ballots cast at satellite locations, cast in*
27 *1 percent of the precincts chosen at random by the elections*
28 *official. If 1 percent of the precincts should be less than one*
29 *whole precinct, the tally shall be conducted in one precinct*
30 *chosen at random by the elections official.*

31 ~~In~~

32 (b) *In addition to the 1 percent count, the elections official*
33 *shall, for each race not included in the initial group of precincts,*
34 *count one additional precinct. The manual tally shall apply only*
35 *to the race not previously counted.*

36 ~~Additional~~

37 (c) *Additional precincts for the manual tally may be selected at*
38 *the discretion of the elections official.*

39 (d) *The elections official shall use either a random number*
40 *generator or other method specified in regulations that shall be*

1 *adopted by the Secretary of State to randomly choose the initial*
2 *precincts subject to the public manual tally.*

3 *SEC. 3. If the Commission on State Mandates determines that*
4 *this act contains costs mandated by the state, reimbursement to*
5 *local agencies and school districts for those costs shall be made*
6 *pursuant to Part 7 (commencing with Section 17500) of Division*
7 *4 of Title 2 of the Government Code.*

8 *SEC. 4. This act is an urgency statute necessary for the*
9 *immediate preservation of the public peace, health, or safety*
10 *within the meaning of Article IV of the Constitution and shall go*
11 *into immediate effect. The facts constituting the necessity are:*

12 *In order to ensure that the maximum number of registered*
13 *voters may participate in the June 6, 2006, direct primary*
14 *election, it is necessary that this act take effect immediately.*

15 ~~SECTION 1. Section 10296.5 is added to the Public Contract~~
16 ~~Code, to read:~~

17 ~~10296.5. (a) For purposes of this section, the following terms~~
18 ~~have the following meanings:~~

19 ~~(1) "Communication" means any meeting, conversation,~~
20 ~~correspondence, or conveyance of information relating to the~~
21 ~~subject matter of the contract.~~

22 ~~(2) "Contract" includes contracts with a cumulative amount of~~
23 ~~one million dollars (\$1,000,000) per contractor in each fiscal~~
24 ~~year.~~

25 ~~(3) "Contractor" means a person or entity that enters into a~~
26 ~~contract with any state agency for the acquisition of goods or~~
27 ~~services in the amount of one million dollars (\$1,000,000) or~~
28 ~~more.~~

29 ~~(4) "State agency" means any state office, department,~~
30 ~~division, bureau, board, agency, or commission and any officer,~~
31 ~~appointee, employee, consultant, or elected official acting on~~
32 ~~behalf of any state office, department, division, bureau, board,~~
33 ~~agency, or commission.~~

34 ~~(b) Every contractor, agent of a contractor, or consultant~~
35 ~~acting on behalf of a contractor, within 30 days after signing a~~
36 ~~contract with a state agency, shall make a public disclosure of~~
37 ~~any communication the contractor, agent, or consultant had with~~
38 ~~the state agency during the one-year period preceding the award~~
39 ~~of the contract.~~

1 ~~(e) The disclosure required by subdivision (b) shall be made to~~
2 ~~the Secretary of State and shall include, but not be limited to, all~~
3 ~~of the following:~~

4 ~~(1) The dates and locations of the communication.~~

5 ~~(2) The names and titles of all parties to the communication.~~

6 ~~(3) A brief description of the communication or, when a claim~~
7 ~~of privilege is being asserted to avoid disclosure of all or part of~~
8 ~~the communication, a complete description of all facts supporting~~
9 ~~the claim of privilege.~~

10 ~~(d) Every contractor, agent of a contractor, or consultant~~
11 ~~acting on behalf of a contractor who fails to comply with the~~
12 ~~requirements of this section is subject to a civil penalty of five~~
13 ~~thousand dollars (\$5,000).~~

14 ~~(e) The Secretary of State may adopt regulations and provide~~
15 ~~forms as may be necessary to implement this section.~~

16 ~~(f) This section applies both to contracts awarded through~~
17 ~~competitive bidding and those that are not subject to competitive~~
18 ~~bidding.~~